



State of Tennessee Department of Children's Services

Administrative Policies and Procedures: 16.12

Subject: Release of Dependent /Neglected and Unruly Children/Youth From State Custody

Supersedes: DCS 12.2, 11/01/02
and DCS 12.3, 11/15/96

Local Policy: No
Local Procedures: No
Training Required: No
Applicable Practice Model Standard(s): Yes

Approved by:

Effective date: 11/15/96

Revision date: 01/01/04

Application

To All Department of Children's Services Case Managers

Authority: TCA 37-5-106; TCA 37-5-112; TCA 37-1-130; TCA 37-1-132

Policy

The Department of Children's Services shall release all dependent/ neglected children/youth from state custody and return them to the home of their parents or caretakers when it is determined that the risks to the health and the safety of the child/youth have been adequately reduced. The Department of Children's Services shall return unruly youth to the home of their parents or caretakers when it is determined that the circumstances or behaviors contributing to the youth's commitment have been remedied. For both dependent/neglected and unruly children/youth, the decision to return them to the home of their parents or care takers must be made in the context of a child and family team meeting, and must be supported by the committing Court.

Procedures

A. Decision to release

1. Criteria

The Case Manager, and his/her supervisor must consider the following criteria in evaluating release to home placement.

- a) The parents or caretakers accept responsibility for the circumstances that led to the placement.

- b) Parents or caretakers have demonstrated new or different behaviors in relation to the child/youth or in relation to other persons who pose a threat to the child/youth.
- c) Parents or caretakers have eliminated harmful conditions that made the home unsafe for the child/youth (e.g. unsafe housing is repaired).
- d) The changed behaviors or conditions are observable and measurable, not good intentions or hearsay.
- e) Evaluations and reports of other service providers support the decision for reunification.
- f) The parents or caretakers have maintained a relationship with the child/youth through regular and meaningful visitation.
- g) The parents or caretakers have achieved desired outcomes stated on the permanency plan.
- h) The child/youth has achieved his/her treatment goals or it is determined that he/she will be able to meet these goals in the home of origin and that he/she is ready to be reunified with the parents or caretakers.

2. Joint decision about visit and time

Decisions about the trial home visit must be made in a child and family team meeting with all relevant parties included.

- a) Other service providers must be invited to participate in this discussion, if possible.
- b) If there is a great distance between the parties, then this meeting may occur by conference call.
- c) If 12 years or older, the child/youth must be included in the child and family team meeting.
- d) If the Child Abuse Review Team will be reviewing this case, then a child and family team meeting may serve this purpose if all of the appropriate parties can attend or be represented.
- e) The parties involved must strive to reach consensus with regard to if and when the trial home visit will occur.
- f) If there is disagreement, then the Case Manager may refer the matter to the appropriate Team Coordinator and ultimately the Regional Administrator.

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- B. Required Reviews For Abused Children/Youth**
1. If the child/youth was placed in state custody as a result of abuse, the Case Manager must present the case to the Child Abuse Review Team (CART) for their review.
 2. If the child/youth was severely abused, then the Case Manager must submit the case for review and recommendations of the Commissioner or the Commissioner's designee. (See DCS Policy, [14.10, Child Protective Services Commissioner's Case File Review of Indicated Neglect or Abuse Investigations.](#))
- C. Legal counsel**
- If all parties concur, then the Case Manager must confer with the regional legal counsel regarding the trial home visit and release.
- D. Court approval**
1. **Notice and motion**
 - a) The legal counsel prepares form CS-0494, *Notice and Motion-Dependent and Neglected*, for a trial home visit. This notification must be filed with the Court by legal counsel or by the Case Manager fifteen (15) days prior to the beginning of the trial visit or by such time as required by the Rules of Court.
 - b) The person who files form CS-0494, *Notice and Motion – Dependent and Neglected*, or CS-0483, *Notice, motion and Order – Unruly*, must obtain a stamped copy of the document for DCS files.
 - c) All Motions, Notices and Orders must accurately reflect the statutory and factual basis for the same, comply with all applicable Rules of Court, and contain the information required by Rule 11 as to signing of pleadings. If there are specific questions, attorneys should contact their regional Supervising Attorney.
 2. **Court does not concur**

If the Court does not concur with the plan for a trial home visit, the (the Court notifies DCS) Case Manager is notified in writing. If the Court sets a hearing on the matter, the Case Manager must notify the regional legal counsel immediately. Legal counsel and the Case Manager plan the next steps for action on the case.

3. No objection

If the Court voices no objection to the trial home visit, then DCS proceeds with the trial home visit as scheduled. The Case Manager shall file the signed order in the child/youth's case file.

**E. Child Welfare
Benefits Unit**

Prior to the beginning of the trial home visit, the Case Manager must inform the Child Welfare Benefits Counselor of the plan to begin the visit.

**F. Supervision
during a trial
home visit**

During the trial home visit, the Case Manager must comply with the policy for supervision of a home placement to ensure that the home environment is safe for the child/youth. See DCS policy [16.38, Supervision of Dependent and Neglected and Unruly Children in Custody/Guardianship](#).

G. Closure

1. Automatic termination

If the court order signed by the judge when the trial home visit began so allowed, legal custody terminates after ninety (90) days.

2. Assessment

If the order did not allow automatic termination of custody after ninety (90) days, and this period of time has passed, the Case Manager must assess the success of the trial visit. If the visit was successful, then the manager must ask the regional legal counsel to petition the court to return legal custody to the **parents or caretakers**.

3. Discharge child and family team meeting

No less than ten (10) days prior to the end of a trial home visit and before case closure, there must be a discharge child and family team meeting to review progress and outline plans for any service provision post custody. This child and family team meeting must comply with DCS policy [31.9, Child and Family Team Meetings at Critical Decision Points and Review of Progress of the Permanency Plan](#).

4. Case closure

After legal custody has been returned to the parents or caretakers and if there are no other risk issues in the family, then the home county case manager must proceed to close

the case. The Case Manager must inform all other service providers and teachers or childcare providers of this closure.

5. The paperwork and computer entries to affect the closure must be completed within forty-eight (48) hours of the closure.

H. Continued Services

If the family has a need for continued service that must be met to assure the safety of the child/youth, or at the request of the Commissioner's office (in cases subject to Commissioner's review), the Department may request of the Court to continue to provide services to the family, re-evaluating the need for continued services as necessary. In other cases, these services may be provided non-custodial and arranged through the discharge planning process.

I. Trial Home visit Disruptions

If, at any time during the trial home visit, problems occur that place the child/youth at risk of harm or that raise concern related to the child/youth's behavior (in the case of unruly youth), the Case Manager must contact regional legal counsel immediately and prepare to present this information to the Court. It may be necessary to petition the Court to remove the child/youth from the home and to again place the child/youth outside of his/her home.

Forms

CS-0494	Notice and Motion – Dependent and Neglected
CS-0483	Notice, Motion and Order - Unruly

Collateral Documents

None

Standards

DCS Practice Model Standard- 5-400
DCS Practice Model Standard- 5-401
DCS Practice Model Standard- 5-500
DCS Practice Model Standard- 5-501
DCS Practice Model Standard- 5-502

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DCS Practice Model Standard- 7-117C

DCS Practice Model Standard- 7-126D

DCS Practice Model Standard- 8-107

DCS Practice Model Standard- 8-108

DCS Practice Model Standard- 12-602

DCS Practice Model Standard- 12-603